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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/020,714	12/14/2001	Cheryl J. Kaminsky	83744AEK	9586

7590 01/06/2005

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EXAMINER

CHANG, VICTOR S

ART UNIT	PAPER NUMBER
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1771

DATE MAILED: 01/06/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

**Application No.**

10/020,714

**Applicant(s)**

KAMINSKY ET AL.

**Examiner**

Victor S Chang

**Art Unit**

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 12 November 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1,6-12,15 and 17-32 is/are pending in the application.
- 4a) Of the above claim(s) 19,23-25,27 and 30-32 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1,6-12,15,17,18,20-22,26,28 and 29 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- ☐ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.
- ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: \_\_\_\_\_.

## **DETAILED ACTION**

### ***Introduction***

1. The Examiner has carefully considered Applicants' amendments and remarks filed on 11/12/2004. Applicants' amendments to the specification, claims 1, 6-8, 15, 18, 20-22, 26 and 28, cancellation of claims 2-5, 13, 14 and 16 have all been entered.
2. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.
3. Rejections not maintained are withdrawn. In particular, the Examiner notes that Applicants' amendments to the specification and claims are sufficient to overcome the prior objection and rejections in sections 2-6 of Office action dated 6/9/2004.
4. This application contains claims 19, 23-25, 27 and 30-32 drawn to an invention nonelected without traverse in Response filed 4/22/2004. A complete reply to the final rejection must include cancellation of nonelected claims or other appropriate action (37 CFR 1.144) See MPEP § 821.01.

### ***Terminal Disclaimer***

5. The terminal disclaimer filed on 11/12/2004 disclaiming the terminal portion of any patent granted on this application which would extend beyond the expiration date of U.S. Application Nos. 10/017,002, 10/020,404 and 10/017,402 has been reviewed and is accepted. The terminal disclaimer has been recorded.

***Rejections Based on Prior Art***

6. Claims 1,6-12,15,17,18,20-22,26,28 and 29 are rejected under 35 U.S.C. 103(a) as being unpatentable over Allen et al. (US6057961), generally as set forth in section 12 of Office action dated 6/9/2004, together with the following additional response to argument.

First, the Examiner repeats the relied upon prior art as follows: Allen's invention is directed to an optical film which exhibits increased gain at non-normal angles of incidence and which comprises a disperse phase of polymeric particles disposed within a continuous birefringent matrix. The film is stretch oriented in one or more directions. The size and shape of the disperse phase particles, the volume fraction of the disperse phase, and the film thickness are chosen to attain a desired degree of diffuse reflection and total transmission of electromagnetic radiation of a desired wavelength in the resulting film (Abstract). In some embodiments, the materials of the continuous and disperse phases may be chosen so that the interface between the two phases will be sufficiently weak to result in microvoiding when the film is oriented. The average dimensions of the voids may be controlled through careful manipulation of processing parameters and stretch ratios, or through selective use of compatibilizers (column 22, lines 4-14).

Applicants' argument "No teaching or suggestion could be found in Allen et al. as to the parameters of voids to be employed to accomplish an improvement in the  $\Delta T$  result. On the other hand, the  $\Delta T$  values for examples 1-5 are not more than 40°K and, for Example 3, not more than 20°K. No basis could be found in Allen et al. for arriving

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at the desired improvement" (Remarks, page 12, last paragraph) has been carefully considered, but is not persuasive. More particularly, the Examiner repeats (see page 9 of Office action dated 6/9/2004) that Allen's invention is directed to the same subject matter as the instant invention, i.e., a polymeric optical film which exhibits increased gain at non-normal angles of incidence and which comprises a disperse phase of polymeric particles disposed within a continuous birefringent matrix. Allen also teaches that the size and shape of the disperse phase particles, and the volume fraction of the disperse phase and the film thickness (which reads on the frequency of the microvoids and the number of times the refractive index changes) are chosen to attain a desired degree of diffuse reflection and total transmission of electromagnetic radiation of a desired wavelength in the resulting film, as set forth above. Finally, Allen expressly teaches that the films exhibit a flat transmission curve as a function of the wavelength of light, which tends to minimize any changes (variation) in color to a resultant display device (column 5, lines 30-34). As such, since Allen teaches essentially the same subject matter as the instantly claimed invention, i.e., a microvoided polymeric light diffuser, although Allen is silent about the  $\Delta T$  values of not more than 20°K, it is believed that suitable  $\Delta T$  values, in the absence of unexpected results, are obvious optimizations to one of ordinary skill in the art of polymer film light diffuser over Allen's teachings, motivated by the desire to obtain a light diffuser with minimal color changes, as taught by Allen. It should be noted that where the claimed and prior art products are identical or substantially identical in structure or composition, or are produced by identical or

substantially identical processes, a *prima facie* case of either anticipation or obviousness has been established. See MPEP § 2112.01.

**Conclusion**

7. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Victor S Chang whose telephone number is 571-272-1474. The examiner can normally be reached on 8:30 - 5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Terrel H Morris can be reached on 571-272-1478. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

*Vsc*  
Victor S Chang  
Examiner  
Art Unit 1771

12/28/2004

  
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SUPERVISORY PATENT EXAMINER  
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